



**ROBERT K. MASUDA**  
DEPUTY DIRECTOR - LAND

**DEAN NAKANO**  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

**OAHU ISLAND BURIAL COUNCIL MEETING**  
**MINUTES**

**DATE: WEDNESDAY, MAY 10, 2006**  
**TIME: 10:00 A.M.**  
**PLACE: DEPARTMENT OF LAND & NATURAL RESOURCES**  
**1151 PUNCHBOWL STREET, ROOM 132**  
**HONOLULU, HAWAII 96813**

**ATTENDANCE:**

**Members:** Jace McQuivey, Chair  
Mark Kawika McKeague, Vice-Chair  
Carolyn "Kehau" Abad  
Cy Bridges  
Van Horn Diamond  
Charles Ehrhorn  
Alice Greenwood  
Analu Josephides  
Kalei Kini  
Kehaulani Kruse  
Aaron Mahi  
Linda Kaleo Paik  
Lynette "Nettie" Tiffany

**Absent:** Andrew Keliikoa (Excused)

**Staff:** Piilani Chang, Oahu Cultural Historian  
Chris Monahan, Oahu Archaeologist  
Susan Yanos, Secretary

**Guests:** Jeff Dinsmore  
Matt McDermott  
Carolyn Norman  
Maria Pacheco  
Pua Aiu  
Hal Hammatt  
Paulette Kaleikini  
Kawehi Yim

## **I. CALL TO ORDER & ROLL CALL**

Meeting was called to order by Chair McQuivey at 10:10 am. As council members introduced themselves, Yanos recorded those that were present. The majority of the members were present and quorum was established. Andrew Keliikoa was excused from today's meeting.

(Bridges enters at 10:12.)

## **II. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF**

SHPD staff introduced themselves. Josephides said a pule.

## **III. OPENING REMARKS**

Chair McQuivey asked the public to sign in to make sure the record reflects all that attended the meeting and to introduce themselves when coming to testify before the council. Chair McQuivey asked the public to have courtesy towards everyone that is participating and to keep all remarks to the council and not to other members of the public. Chair McQuivey reminded the public that the council established a four-minute testimony policy.

## **IV. APPROVAL OF APRIL 12, 2006 MEETING MINUTES**

Correction by Kehau Kruse: Page 5, Misspelling of Eric Masutani; Change to Eric Masutomi.

Correction by Kehau Kruse: Page 8, First paragraph; Change “know claimant” to “known claimant.”

Correction by Kehau Kruse and clarification by Kalei Kini: Page 8, Second paragraph; Change “Paik expressed her concern...to inform the Marine Corp that the council will not take any action their project because the council has some concerns that the other” to “Paik expressed her concern...to inform the Marine Corp that the council will not take any action on their project because the council has some concerns with the other.”

Correction by Kehau Kruse: Page 8, Fifth paragraph; Change “Abad suggested that the council may want approach the idea...” to “Abad suggested that the council may want to approach the idea...”

Correction by Kehau Kruse: Page 8, Fifth paragraph; Change “The Marine Corp has undertaken numerous projects in the past where they work ask if...” to “The Marine Corp has undertaken numerous projects in the past where they work as if...”

(Paik enters at 10:15.)

Correction by Kehau Kruse: Page 10, Second paragraph; Change “Borthwick stated that there is a root of...” to “Borthwick stated that there is a route of...”

Correction by Kehau Kruse: Page 10, Last paragraph; Change “...had active beach burn” to “...had active beach berm.”

Correction by Analu Josephides: Page 1; Minutes did not reflect Josephides and Keliikoa’s excused absences.

Clarification by Kawika McKeague: Page 8, Fourth paragraph; It should be “McKeague inquired whether Section 106 is concurrent with a NHPA review, because under NHPA, once a notice of intent is published, there is a thirty-day review period and scoping process initiated.”

**A motion to approve the April 12, 2006 OIBC Meeting Minutes with the corrections was made and seconded. (Kini/Paik)**

**VOTE: ALL IN FAVOR. Motion carries.**

## **V. ANNOUNCEMENTS**

### **A. Update on the Victoria Ward Village Shops Project [TMK: 2-3-5: 13-17, 22-23] Waikiki Ahupuaa, Kona District, Island of Oahu**

An informational update was made by Jeff Dinsmore, a representative from General Growth Properties (GGP). Dinsmore thanked SHPD staff for all their help and especially Piilani Chang for taking time out of her schedule to attend an informational meeting this past Monday night to discuss various details of the project. Dinsmore also thanked some of the descendant candidates for coming to the informational meetings and providing GGP with helpful information. Dinsmore stated that their archaeological survey is completed. He gave an overview of the burials found on the project property. There were 9 burials found when the presentation was made to the council in April and since then, 2 additional burials were found; which would bring the total number of burials found on the property to 11.

Dinsmore said that their preferred plan is to recommend reinterment at the Queen Street Extension Project reburial site, which is located across the street from this project. He stated that they would like to use this reburial site for reinterment because the project site has constraints that would make it very difficult to rebury on the property. The site across the street offers several benefits (in Dinsmore’s opinion): 1) it offers a private, secured location (minimal traffic and pedestrian flows) and 2) reinterment could be made immediately (there will be no need for a temporary construction). If the remains were to be reburied on-site, there will be a long curation period because the construction for this project will take approximately 2 years.

Kruse asked if the proposed reinterment site (on Queen St.) is part of this project. Dinsmore said that the reinterment site is currently on Hawaii Community Development Authority’s (HCDA) property. Dinsmore stated that he has been in communication with

HCDA and was under the impression that they would agree to this as a reinterment site for this project if that was the OIBC's desire. Tiffany asked if HCDA would improve the reinterment site area. Dinsmore said that HCDA's long-term plan for the area is to improve it, but GGP would take responsibility for the reinterment site area and improve it immediately.

Kruse asked if there was a way for GGP to accommodate the 'iwi on their property. Dinsmore replied by saying that there are two potential locations that they are looking at but both options would probably require there to be a 2-year temporary curation. Kruse expressed her concern about reburying these 'iwi on a different property. Dinsmore said that one of the ideas was to create additional room in this area in case there were additional discoveries of 'iwi that this area would be able to accommodate them. Kruse asked about the size of the area. Dinsmore said it's about 25 feet wide.

(Diamond enters at 10:30 am)

Paik stated that she was involved with this reinterment so she is familiar with the area and asked what the recommendations from the descendants are. Dinsmore said that they've met with some of the descendants and doesn't know if they've come to any conclusions. Greenwood asked where the ancient fishpond was located on the property. McDermott of Cultural Surveys Hawaii (CSH) pointed out on a map where the fishpond was and where other areas where burials were found. He also summarized their findings of the archaeological inventory survey.

(Mahi enters at 10:40 am)

Diamond asked when the foundation for this project would be completed. Dinsmore replied that the foundation has been put on hold. Currently, they are half-way through the construction of the foundation. Dinsmore said that the areas where there were discoveries have been "off limit".

Chair McQuivey invited the descendants to speak. Paulette Kaleikini and Carolyn Norman came forward. Kaleikini inquired about the development plans of the project as far as commercial and residential units. Norman stated that their family is hoping to be recognized as descendants by next month. She stated that she expressed to Dinsmore that their position was to preserve in place instead of relocating to the Kamakee/Queen Streets reinterment site. Norman asked the council to consider and respect the tradition and culture of the kupuna. Kaleikini added that the 'iwi kupuna from this project were all in flex – historic and pre-historic burials – therefore, they should be kept in place. Kaleikini expressed her feeling that GGP should redesign especially since this development is not directed to benefit native Hawaiians. Kaleikini acknowledged the laws that are in place to protect the 'iwi kupuna and leaves it in the council's hands to make the right decision. Chair McQuivey stated that the council would not be making a decision on this project at today's meeting but thanked the families for their participation and comments.

Kaleikini also expressed her concern about Communication Pacific (ComPac) dealing with the descendants on this project. She felt that the developer would benefit if GGP dealt with the descendants directly instead.

Josephides asked if all 11 burial discoveries were previously identified. Ehrhorn asked when these 'iwi were first identified. Chang replied that there is no definite time frame as to when these 'iwi were first identified. Under the HARs, 'iwi are considered previously identified when they are found during archaeological inventory survey. Abad explained that one of the purposes of historic preservation laws is so that the inventory surveys can occur at the very beginning of the planning process. Armed with this information, the knowledge would allow a developer to develop a plan with all the variables known over that parcel.

Abad asked Dinsmore what can be done with project design to accommodate a possible determination of preserving the burials in place. Dinsmore explained that the majority of the burials found in urban Honolulu were under existing buildings. Therefore, in order to conduct a survey, you would have to tear down the existing building, do a survey and then determine if the parcel was developable. From the landowner/developer's stand point it's difficult. Dinsmore said that in the last eight years that he has been working on the development of the Victoria Ward Properties (Ward Entertainment Center, Nordstrom Rack, Office Depot, Nordstrom Shoe Store), they have not uncovered burials in those areas. The burials on Queen Street were the only ones that had been previously discovered, and those were western-style burials. So they were not expecting to uncover burials on this project. Dinsmore stated the processes that GGP had already gone through with this project make it economically difficult to redesign.

Abad realized that her question of how GGP could accommodate a possible determination of preserving in place couldn't be answered at this meeting, so she asked Dinsmore if they could attend next month's meeting with some options.

Josephides asked if there were other descendents that have come forward and what the time frame is to submit a claim. Chang replied that the Kaleikini and Norman families are the only ones who have submitted applications. She added that staff recommendations will be coming to the council at next month's meeting. As far as timeline, she explained that whenever previously identified remains are discovered, a notice is posted in the *Honolulu Advertiser* as well as OHA's newsletter (if they are considered native Hawaiian). Chang said that the ad was posted on April 19, 2006. Chang said that the ad stated that people should contact SHPD within 30 days of when the ad was posted. Chang stated that there is still time for people to submit their applications and they could come before the council if all the necessary paperwork is turned in.

McKeague asked Dinsmore what permits were required for this project that would trigger an evaluation of the impacts on historic resources. Dinsmore explained that HCDA requires archaeological surveys to fall in that process since this project is on HCDA property.

McKeague asked Aiu (ComPac) what the process of notifying the descendents and who has been involved. Aiu stated that she had used the list of descendents from Wal-Mart and Waikiki because those were the lists that ComPac had. She recognized that the lists were not extensive, and stated that the only other option was to send the notices to the lineals.

Several council members expressed their concerns about the maintenance of the burial site if a determination of relocation was decided upon. Some of the council members are aware of the present condition of the Kamakee/Queen Street burial site on HCDA's property and wanted assurances that, should these 'iwi be relocated, the burial site would be properly maintained.

Chang explained that in burial treatment plans, the department is asking that a reburial agreement or in situ agreement be signed to protect the burials in perpetuity. These agreements need to be signed by the landowner, BLNR, and the Deputy Attorney General. If the burial sites are not being maintained, the department has a legal binding agreement that will hold landowner's legally responsible.

Kaleikini expressed her concern that she does not want the burial site on HCDA property to become the place for all 'iwi in that area to be reburied.

Diamond expressed his opinion that when people come forward to assume responsibility of kuleana as cultural or lineal descendent, they should have the responsibility to take care of those burial sites too—not just the developer.

Council breaks at 11:25. Meeting resumes at 11:35.

## **VI. COUNCIL ACTIONS**

### **A. Discussion on Mokapu burials**

Chang explained to the council that she was able to contact June Cleghorn from the Kaneohe Marine Corp Base to invite her to come to this OIBC meeting to discuss the proposed MOUT facility on Mokapu. Chang said that Cleghorn was unable to attend this meeting but offered to set up a site visit for the council members and SHPD. Chang asked the council to provide her with a date that she work out with June Cleghorn.

Kini asked if the discussion at the site visit could include the MOUT facility and the pending reburials at Mokapu. Chang stated that she has already talked to June Cleghorn about these two issues that the council is concerned about and feels that it would be appropriate to talk about them both at the site visit.

Chang suggested that the site visit take place the morning of the next OIBC meeting. Diamond suggested that if they have the site visit on the same day as the OIBC meeting, would it be possible to have the OIBC meeting on the windward side after the site visit is completed. McQuivey summarized the council's suggestions for the site visit by stating that it seemed to be the consensus of the council to have the site visit at 9 am on June 14<sup>th</sup> and the OIBC meeting at 11 am in the Kaneohe/Kailua area.

Chang asked the council if they had any questions relating to the letter that DLNR wrote to the Kaneohe Marine Corp Base in regards to the Mokapu MOUT facility because Chris Monahan (SHPD Archaeologist) is available to answer any questions. McQuivey stated that there were no questions.

## **B. Discussion on Kuilima Resort Company**

Chang stated that she contacted the Office of Hawaiian Affairs (OHA) and Kuilima to attend this meeting in regards to this agenda item. OHA was unable to make this meeting but would like the council to know that they are drafting a letter to comment on the development at Kuilima. Kuilima was also unable to make this meeting because they had prior commitments but said that they are confirmed to make the June meeting. Kuilima asked if the council would make their concerns/questions known to Chang at this meeting in order to adequately address all of them at the next meeting.

Diamond stated that it is his understanding that the last Environmental Impact Statement (EIS) was done in 1985-1986, which is the basis for their game plan. Diamond feels that the past EIS should be obsolete and they need to do a new one and submit a copy to the OIBC before they do anything. Abad said that they need to explain to the council how they intend to comply with the HAR's and HRS's that have been passed since then. They have proceeded without consulting with the OIBC and they need to be aware of that. Abad stated that they are in severe danger of being in violation of Chapter 6E. Greenwood said that the letter that was sent out in the packet explains what has been happening out there.

Abad said that there are previously identified burials on the parcel and that explains why they need to come before this council. Abad went on to say that the council needs to be briefed on the archaeological work that has occurred there, previously historical documentation relative to that area, any record they might have of consultation with others, their project plans, a map/footprints of all their ground disturbing activities overlaid with the burial sites so that the council knows where they're at, their sampling (archaeological excavation/subsurface testing that they've done), etc. Abad suspects that Kuilima could not prove to the council that they've met the requirements that have since been in effect. Ehrhorn pointed out that the last construction activity that happened out there was back in the 1980's and burial laws came into effect after that. Ehrhorn agrees that Kuilima needs to come before the council. Paik asked if there is any indication that there has been any contact with any descendants. Chang stated that she is not familiar with this project and could not answer Paik's question with certainty. Chang also stated for the record that she contacted Department of Planning and Permitting (DPP) and invited them to attend this meeting but they declined to comment and referred her to Corporation Counsel.

Abad suggested that the council write a formal letter to DPP, developer, OHA, and SHPD to put down on paper that these are the council's questions and that it is the understanding that this is the council's jurisdiction; therefore, the council is asserting this jurisdiction. Diamond suggested that the letter should also include the City Council.

**A motion was made for the council to write a formal letter to Kuilima (the developer), the Department of Planning and Permitting, and OHA (with the Mayor's office, City Council, and SHPD copied on this letter), which will be drafted by OIBC member Kehau Abad and signed by the OIBC Chair Jace McQuivey, to state the council's statutory jurisdiction over the previously identified burials in the project area and the expectation that the council's jurisdiction should be honored**

**in this situation with specific reference to the appropriate rules, regulations, and statutes. (Abad/Diamond)**

**VOTE: ALL IN FAVOR. Motion carries.**

McQuivey thanked Chang for all the work she did to coordinate the first two items on this agenda.

Hal Hammatt, Cultural Surveys Hawaii, stated that he came to this meeting to observe and take notes of what Kuilima can do to address the council's concerns. It is their intention to get on the next agenda to answer all the council's questions and give a full disclosure on Kuilima's development plans.

#### **C. Discussion on Council Direction, Goals and Objectives**

McQuivey stated that he has met with the SHPD Administrator to discuss certain concerns and would like to update the council on that meeting. McKeague expressed to the council that he has been in discussion with the Native Rights Division of OHA to help strengthen the relationship between the different state agencies involved.

#### **D. Discussion of the Department's collection of 'iwi**

McQuivey asked the council members and department if there has been any progress regarding the reinterment of the department's collection of 'iwi. Tiffany provided the council with an update of her discussions with Campbell Estate. She offered her mana'o of past discussions of a reinterment site on Campbell Estate property. She suggested that the council, as well as the department, follow-up with Campbell Estate. McQuivey thanked Tiffany and Ehrhorn for their efforts.

Chang informed the council that she will be meeting with Diamond and Kruse after the meeting to discuss reburial options within their district. Chang also stated that she had followed up on Paik's suggestions for a location in the Waialua district and it has led to a very promising lead. Diamond also stated that he needs to follow-up with a landowner regarding a possible reinterment location. Paik commented that when looking at possible locations, it should be looked as a place where the 'iwi kupuna will be preserved in perpetuity.

**A motion was made to establish a task force, to include Van Diamond, Kehau Kruse, and Nettie Tiffany, to discuss with the department reinterment options for the Kona District and to report back to the council at the next meeting of their discussion. (Diamond/Mahi)**

**VOTE: ALL IN FAVOR. Motion carries.**

#### **E. Status Update on Wal-Mart case**



McQuivey explained to the council that he is trying to confer the Attorney General's office about the council's role in the contested hearing case for Walmart. McQuivey stated that he has been in discussion with Tim Lee, of SHPD, about the council's involvement with the case and the need for the council to receive all the correspondence related to this case. McQuivey said that Tim Lee's explanation did not clarify the council's questions and he was referred to Bill Cooper of the Attorney General's office. McQuivey stated that he doesn't feel that the council needs to be involved with this case and he would like to take this item off the agenda. Diamond expressed his concern about the council's involvement in this case. Paik stated that she had contacted Tim Lee after she had received the first letter and asked him to explain why they needed to get this correspondence. She went on to say that Tim Lee had explained that it was for information purposes and possibly because the council had made a decision earlier regarding another matter. Diamond pointed out that that the contested case hearing is a separate issue from what the council was involved with earlier. McQuivey said that he will try to clarify the matter and report back to the council.

#### **F. Status Update on Section 106/NAGPRA Correspondence**

Greenwood shared with the council that she has received three letters relating to Section 106 consultation this past month. She explained the comments that she made regarding the different projects. She stated that she is continuing to work on clarifying the council's responsibility to maintain a list of appropriate Hawaiian organizations. She recommended that the council members attend a meeting that the Advisory Council of Historic Preservation (ACHP) will be hosting in Honolulu during the month of May. Abad suggested that the council should take the opportunity to comment on the draft policy that ACHP is writing. She explained that this draft policy would be helpful when federal agencies are not required to go through the City & County permitting. The draft policy would be used as a guideline for federal agencies to conduct consultation with Native Hawaiian organizations and other interested parties. McQuivey thanked Greenwood for taking the time to review all the correspondence and reporting back to the council on her findings. McQuivey encouraged council members to attend the meetings that ACHP is hosting because it would be very beneficial to all involved.

#### **VII. SHPD INADVERTENT DISCOVERY REPORT**

Chang referred the members to the monthly summary report of inadvertent discoveries of human skeletal remains, which was previously provided to the members in their packets. She read into the record the contents of her April 4, 2006 memo to the council.

#### **VIII. ADJOURNMENT**

Tiffany stated that she will not be able to make the June meeting and this will be her last meeting. She thanked the council for all the help and support over the years. Diamond pointed out that the next meeting will be his last meeting. McQuivey thanked Tiffany for all her work and dedication to the council over the years.

The meeting was adjourned at 12:48 p.m.

Respectfully submitted,

Susan P. Yanos, SHPD Secretary and  
Piilani Chang, SHPD Cultural Historian